

THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT (SSCRA)

WHAT IS THE SSCRA?

Congress passed the Soldiers' and Sailors' Civil Relief Act to provide protections for servicemembers in several key areas:

- ◆ It can help you stop a civil legal action (not a criminal action) or avoid default judgments in such an action IF you cannot attend court due to military obligations;
- ◆ It protects your state citizenship and can protect you from certain state taxes;
- ◆ It can help you lower the interest rate that you pay on certain pre-service debts under limited conditions; and
- ◆ It can help you terminate a lease IF certain conditions are met.

STAYS AND DEFAULT JUDGMENTS

The SSCRA allows an active duty servicemember to request a “stay of proceedings” (temporary delay of court proceeding) in a CIVIL action under certain conditions. A NLSO Legal Assistance Attorney can help you determine if you are eligible for a stay. Courts are reluctant to grant a stay unless strict criteria are met. A default judgment (judgment in your absence) cannot be issued until the Court has determined whether you are eligible for a stay. These protections do not apply to criminal or administrative proceedings. Contact the NLSO if you have any questions about SSCRA protection in a civil action.

RESIDENCY AND TAXES

If you are on active duty, the SSCRA guarantees that your state residency will not change just because of your military orders – even if you buy a house in the state of your new duty station, register your car there, or obtain a new state driver’s license. This means that you will continue to pay state taxes ONLY to your home state, UNLESS you change state residency voluntarily. The primary means of changing state residency voluntarily are by voting in a new state or changing tax withholding to a new state.

You may need to file an affidavit in your new state to avoid state tax or yearly personal property tax. The SSCRA does not protect you against paying local real estate taxes or state income taxes on non-military income. So if you work a second job, you must pay local state tax on that income. It also does not protect your spouse – your spouse will be subject to all the normal state residency and tax rules.

If you have any questions about state residency, please contact a NLSO attorney.

TERMINATING A LEASE

Servicemembers often think the SSCRA will protect them from paying penalties for breaking a lease due to military orders. This is not true for most servicemembers. To be protected by the SSCRA, the current lease must have been signed before entering active duty and the servicemember (or dependents) must have lived at the dwelling, and military service must have a “material effect” on ability to keep the lease. The only sure protection for leases signed after enlistment is a military clause in the lease. Contact the NLSO before signing or breaking any lease.

6% INTEREST RATE PROTECTION

The SSCRA allows you to request that the interest rate you pay on a debt incurred before you joined the military be reduced to 6% per annum. To be eligible for the 6% cap, you must have incurred the debt before joining the service and your ability to pay must have been materially affected by military service. "Material effect" is a vague term that is often interpreted to involve mobilization for war or an extended deployment overseas. However, since the burden is on the creditor to prove a lack of "material effect", many creditors will grant the cap as a courtesy if properly requested.

It is up to the servicemember to request the 6% cap; there is a sample letter to use in writing your creditor on the back of this pamphlet. You should include a copy of your military orders and may be asked to include financial information in your request. If a creditor refuses to lower the interest rate on a qualified pre-service debt, you should see a NLSO Legal Assistance Attorney. This protection does not apply to government-backed college loans or to any debt acquired after joining the military.

Sample 6% Request Letter

Date _____

(Your name & address)

(Company's name & address)

Dear _____,

This is a letter requesting a reduction of the interest rate on my (*account name & number*), under the Soldiers' and Sailors' Civil Relief Act (50 U.S.C. App. 526). As an active duty member of the armed forces, I am entitled to maximum interest rate protection of 6% per annum on pre-service debt obligation. This interest rate protection applies during peacetime as well as time of war. There is no requirement of overseas service and the difference between the old rate and the 6% maximum is forgiven. Attached you will find a copy of my enlistment contract and/or orders to active duty. Thank you for your cooperation.

Sincerely,

INFORMATION RESOURCES

The information contained in this pamphlet is general in nature, and may or may not apply to your particular case. If you have any questions, a NLSO Legal Assistance Attorney can help you to understand how the SSCRA impacts your individual case. Call the Naval Legal Service Office at (860) 694-3741 ext. 10 to make an appointment to speak with a NLSO Legal Assistance Attorney.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT

To: Assessor or Board of Assessors, Town or City of _____, Connecticut:

I, _____

(Name: Last name/first name/middle initial (Rank) (Branch) (SSN)

hereby claim an exemption from personal property taxation in accordance with the provisions of §574 of the Federal Soldier's and Sailor's Civil Relief Act of 1940, as amended. I understand that I (and/or my spouse, if applicable) am not entitled to an exemption from the personal property tax liability arising from a business that I/we conduct in the State of Connecticut, and that I/we are required to submit an annual Personal Property Declaration, on or before November 1st, to the assessor(s) of the town in which such a business is/was subject to taxation. Having been duly sworn, I depose the following in support of my claim.

MILITARY DATA

1. On October 1, _____(hereinafter referred to as the assessment date), I was an active duty member of the United States Armed Forces, attached to the following duty station: _____
2. I reported to my present duty station on or about _____, and anticipate that my present tour of duty assignment at that station will be completed on or about _____.
3. My presence in Connecticut on the assessment date was solely as a result of my official military orders. Yes No
4. My domicile (i.e., my permanent and legal residence) on the assessment date was in the State of _____.
5. I have retained my domicile in said State without interruption throughout my service in the Armed Forces. Yes No
If "no", explain. _____
6. It is now, and was on the assessment date, my intention to return to the State of my domicile upon my separation or retirement from the United States Armed Forces.
Yes No
If "no", explain. _____
7. My home of record or permanent address as shown in my military records is in the State of _____.

PERSONAL DATA

8. On the assessment date, I lived in the State of Connecticut at

(Street, Number and City/Town)

9. My current address is the same as on the assessment date. Yes No
If "no", explain. _____

10. I am and was married on the assessment. Yes No

11. Spouse's name _____

12. I am a registered voter. Yes No

13. I last voted in the State of _____, in an election held in the year _____.

14. I have a valid motor vehicle operator's license. Yes No

15. The State of _____ issued said license.

16. I have executed a last will and testament. Yes No

17. In said document, I declared the State of _____ as my legal residence, for probate and taxation purposes.

18. I have the following religious, social, fraternal, recreational or business affiliations in Connecticut:

19. I have the following religious, social, fraternal, recreational or business affiliations outside of Connecticut: _____

20. I maintain a bank account in the State of my domicile. Yes No

21. I maintain a bank account in Connecticut. Yes No

22. I have claimed a veteran's exemption as a Connecticut residence. Yes No

23. If "yes", enter year(s) exemption was claimed _____.

TAX DATA

24. I have been assigned to my present duty station for more than one calendar year, based upon which I have received an exemption from the Commissioner of the Department of Revenue Services from the payment of the State of Connecticut's personal income tax. (If "yes", do not answer Questions 27 to 32.) Yes No

25. The State of my legal domicile levies a personal income tax on its citizens.
Yes No

26. I file a personal income tax return in the State of my legal domicile. Yes No
If "yes", my most recent filing was for the _____ calendar year. If "no", explain.

27. My most recent federal income tax return, for the calendar year of _____, was mailed to the Internal Revenue Service Office located in _____, which is the designated recipient of such returns for residents of the State of my domicile.

28. I pay other than personal income taxes to the State of my legal domicile.
Yes No

29. If "yes", my most recent payment was for the _____ calendar year.

30. Check tax type: Property Business Other If "other", please describe:

PROPERTY DATA

31. On the assessment date, I (and/or my spouse, if applicable) owned real property, such as a house or other building, a building lot or unimproved land, etc. Yes No

32. If "yes", indicate the type of real property owned and its location, whether in or outside the State of Connecticut.

Type of real property

City/Town and State

